

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON, TACOMA DIVISION**

Joncee Hull, Sharon Shrout,  
Christina Gibbs, and Darmon Gibbs,  
individually and on behalf of others  
similarly situated,

Plaintiff,

v.

Multicare Health System, Multicare  
Tacoma General Hospital,  
Marybridge Children's Hospital,  
Multicare Valley Hospital, and  
Community Health Systems, Inc.

Defendants.

**Case No: 3:18-cv-05352-BHS**

**Second Amended Class Action  
Complaint**

**Jury Trial Demanded**

**INTRODUCTION**

1. Plaintiffs Joncee Hull ("Plaintiff Hull"), Sharon Shrout ("Plaintiff Shrout"), Christina Gibbs ("Plaintiff Christina Gibbs"), and Darmon Gibbs ("Plaintiff Darmon Gibbs") (or jointly as "Plaintiffs") bring this class action complaint against Multicare Health System ("MHS"), Multicare Tacoma General

1 Hospital (“MTGH”), Marybridge Children’s Hospital (“MBH”), and  
2 Community Health Systems, Inc. (“CHS”) (or jointly as “Defendants”),  
3 challenging their unfair, deceptive, and unlawful practice of subjecting  
4 Plaintiffs and other similarly situated uninsured and underinsured patients to  
5 collection efforts without first affirmatively screening them to determine their  
6 financial eligibility for free or discounted hospital care under Washington’s  
7 Charity Care Act, RCW Ch. 70.170 (“Charity Care Act”).

8 2. The classes in this case encompass Defendants’ patients who were provided  
9 emergency care and (1) were uninsured and not covered by a governmental  
10 healthcare program or any other third-party payment source, or (2) were  
11 underinsured because any private insurance, governmental healthcare  
12 program or third-party source available to them was insufficient to cover the  
13 full cost of their care.

14 3. Plaintiffs were underinsured when they went to Defendants’ hospital and  
15 received emergency care for which she alleges they should have received free  
16 or discounted care under the Charity Care Act.

17 4. The Charity Care Act requires Defendant to grant free or discounted care to  
18 qualifying uninsured or underinsured patients upon determining their income  
19 is below 200% of the federal poverty level. This obligation to charity care  
20 continues after the hospital assigns a patient’s account to collections,  
21 including after its collecting agency files suit to collect on the account. Under  
22 current guidelines, 200% of the federal poverty level for a family of four in  
23 Washington is an income of \$48,600 per year.

24 5. The Charity Care Act requires Defendant to screen its patients at or near the  
25 time of service to determine whether they qualify for free or discounted care  
26 based on their income. This affirmative proactive screening to determine each  
27 patient’s financial eligibility for charity care must occur *before* any collection  
28 efforts.

- 1 6. Plaintiffs are informed and believe, and thereon allege, that Defendants have  
2 engaged, and continue to engage, in a pattern and practice of collecting or  
3 seeking to collect from patients without first affirmatively screening them to  
4 determine whether they qualify for charity care based on their income.
- 5 7. Representing uninsured and underinsured patients, Plaintiffs brings their  
6 claims in this case on behalf of themselves and similarly situated patients who  
7 1) received emergency care medical treatment; 2) were uninsured or  
8 underinsured by insurance or any third-party source of payment at the time of  
9 treatment; and 3) were subject to collections even though Defendants' account  
10 records show no affirmative screening to determine Plaintiffs' eligibility for  
11 charity care.
- 12 8. On behalf of both uninsured and underinsured patients who received  
13 emergency medical services from Defendants but did not receive the charity  
14 care to which they were entitled, this lawsuit seeks: 1) declaratory and  
15 injunctive relief to require Defendants to fully comply with the requirements  
16 of the Charity Care Act; 2) recovery of excess payments made by Plaintiffs  
17 and class members for the proposed uninsured and underinsured classes when  
18 they were indigent; and 3) damages under the Washington Consumer  
19 Protection Act RCW 19.86 for Defendants' unfair and deceptive practices.
- 20 9. Plaintiffs make these allegations on information and belief, with the exception  
21 of those allegations that pertain directly to a plaintiff, which Plaintiff alleges  
22 on her personal knowledge.
- 23 10. While many violations are described below with specificity, this Complaint  
24 alleges violations of the statutes cited in their entirety.
- 25 11. All the conduct engaged in by Defendants took place in the Western District  
26 of Washington.

12. Any violations by Defendants were knowing, willful, and intentional, and Defendants did not maintain procedures reasonably adapted to avoid any such specific violation.

### **JURISDICTION AND VENUE**

13. Jurisdiction of this Court arises pursuant to the Class Action Fairness Act 28 U.S.C. § 1332(d), 1453, and 1711-1715 (“CAFA”), 28 U.S.C. § 1331, and 28 U.S.C. § 1367 for supplemental state claims.

14. This action arises out of Defendants’ violations of the Washington Charity Care Act and the Washington Consumer Protection Act RCW 19.86.

15. Because Defendants conduct business within the State of Washington, personal jurisdiction is established.

16. Venue is proper pursuant to 28 U.S.C. § 1391 because the events leading to the cause of action occurred in the City of Tacoma, County of Pierce, State of Washington.

17. At all times relevant, Defendants conducted business within the State of Washington.

### **PARTIES**

18. Plaintiff Hull is a natural person who resides in the City of Tacoma, State of Washington.

19. Plaintiff Shrout is a natural person who resides in the City of Tacoma, State of Washington.

20. Defendant MTGH Hospital is a hospital located in the city of Tacoma, State of Washington.

21. Defendant MBH is a hospital located in the city of Tacoma, State of Washington.

22. Defendant MHS is believed to be the parent corporation of MTGH since July 1, 2017, located in the City of Tacoma, in the State of Washington.

23. Defendant MHS is the owner of multiple hospitals according to MHS's website.

24. Defendant CHS is believed to have owned and operated MVH prior to July 1, 2017.

### GENERAL ALLEGATIONS

25. In 1989, the Washington legislature enacted the Charity Care Act and mandated the provision of charity care by all Washington hospitals. The legislature concluded that this is essential to "moderate health care costs and promote access to health care services." RCW 70.170.010(2). It found that all hospitals must provide charity care in order to ensure access to health care for low-income residents. "Therefore, the legislature intends that charity care requirements and related enforcement provisions for hospitals be explicitly established." RCW 70.170.010(3).

26. Washington's Charity Care Act and its implementing regulations (collectively the "Act" or "Charity Care Act") require all Washington hospitals to provide charity care to indigent patients, who are defined as patients with incomes at or below 200% of the federal poverty level. *See* RCW 70.170.060(5) (charity care for full amount of charges for all patients at or below 100% of the federal poverty level); WAC 246-453-040(2) (partial charity care for patients at or below 200% of poverty level); WAC 246-453-010(4) (defining "indigent persons" as "patients who have exhausted any third party sources, including Medicare and Medicaid, and whose income is equal to or below 200% of the federal poverty standards").

27. The Charity Care Act specifically requires hospitals to affirmatively screen all patients at or near the time of admission to the hospital to determine whether they are indigent, and to conduct this affirmation screening *before* demanding

1 payment for services. RCW 70.170.060(5), (6); WAC 246-453-020(1), (1)(a),  
2 (1)(b).

3 28. The Charity Care Act further prohibits hospital policies or practices which  
4 result in a significant reduction in the proportion of indigent patients served  
5 by the hospital. RCW 70.170.060(1).

6 29. These provisions require hospitals to affirmatively and proactively screen all  
7 patients at or near the time of admission to determine whether they qualify for  
8 free or discounted care based on their low income, and this initial  
9 determination “*shall* precede collection efforts directed to the patient.” RCW  
10 70.170.060(6) (emphasis added); see also WAC 246-453-020(1)(a)  
11 (“Collection efforts shall include any demand for payment or transmission of  
12 account documents or information which is not clearly identified as being  
13 intended solely for the purpose of transmitting information to the responsible  
14 party.”).

15 30. This “initial determination of sponsorship status” that hospitals must make  
16 before initiating collection efforts is an affirmative screening to identify  
17 whether each patient “may meet the criteria for designation as an indigent  
18 person qualifying for charity care.” WAC 246-453-010(19).

19 31. Under the Charity Care Act, when a hospital fails to affirmatively screen  
20 patients to conduct this required initial determination of eligibility for charity  
21 care based on income, the hospital is precluded from engaging in collection  
22 efforts directed to the patient. RCW 70.170.060(6); WAC 246-453-020(1)(a).

23 32. Statewide, approximately 14% of Washington residents have household  
24 income below 100% poverty level,<sup>1</sup> and over 31% are in households with  
25 income below 200% of the poverty level.<sup>2</sup> Based on the current state

26  
27 <sup>1</sup> See <http://www.washington.edu/news/2014/09/18/poverty-income-inequality-increase-in-washington-state/>.

28 <sup>2</sup> See <http://kff.org/other/state-indicator/population-up-to-200-fpl>.

population of approximately 7.1 million people,<sup>3</sup> this means that approximately 994,000 state residents (14% times 7,100,000) live below 100% of poverty level and would qualify for free hospital care based on income, and another 1.2 million state residents (31% time 7,100,000 minus 994,000) have incomes between 100% and 200% of poverty level and would qualify for discounted care based on their income under the Charity Care Act. *See* RCW 70.170.060(5); WAC 246-453-040(1) & (2).<sup>4</sup>

33. Because Medicaid expansion covers up to 138% of poverty level, over half a million adults in Washington who were previously uninsured became eligible for coverage under the Patient Protection and Affordable Care Act (“ACA”). As a result, the uninsured rate in Washington has dropped from 14 percent of the state’s population in 2013 to 7.3 percent today.<sup>5</sup>

#### FACTUAL ALLEGATIONS

34. Plaintiffs are informed and believes that contrary to Defendants’ legal obligations to affirmatively screen patients for charity care before engaging in collection efforts, Defendants have engaged, and continue to engage, in a pattern and practice of collecting or seeking to collect from their patients without first affirmatively screening patients to determine whether patients qualify for charity care based on their income.

#### **Plaintiff Joncee Hull**

35. In or around May 2016, Plaintiff Hull received emergency services from MHS at MTGH.

36. MTGH completed an emergency evaluation on Plaintiff Hull and ended up completing a gall bladder removal on Plaintiff Hull.

<sup>3</sup> *See* <http://population2016.com/population-of-washington-in-2016.html>.

<sup>4</sup> Under 2016 poverty guidelines, 100% and 200% of poverty level for a family of four are \$24,300 and \$48,600 per year. *See* <https://aspe.hhs.gov/poverty-guidelines>.

<sup>5</sup> *See* <https://www.insurance.wa.gov/about-oic/newsroom/news/2016/02-02-2016.html>.



- 1 37. On this trip to the hospital in or around May 2016, Defendants did *not*  
2 affirmatively screen Plaintiff Hull for charity care.
- 3 38. As a result of this visit, Defendants charged Plaintiff Hull an amount which  
4 Plaintiff Hull could not afford.
- 5 39. Plaintiff Hull was underinsured at the time of service in or around May 2016.
- 6 40. Subsequently, Plaintiff Hull's account with Defendants was sent to a debt  
7 collector, Puget Sound Collections ("PSC")
- 8 41. PSC subsequently started collecting money from Plaintiff Hull indicating that  
9 Plaintiff Hull owed money to MTGH.
- 10 42. Defendants did not determine Plaintiff Hull's charity care eligibility before  
11 sending this account to PSC for collection.
- 12 43. Defendants never contacted Plaintiff Hull regarding her hospital bill before  
13 referring Plaintiff Hull's account to PSC.
- 14 44. Because of Defendants' failure to screen Plaintiff Hull, Plaintiff Hull has been  
15 paying PSC from the time PSC started collecting to the present.
- 16 45. The first time Plaintiff Hull heard about this outstanding bill with Defendants  
17 was when she was contacted by PSC.
- 18 46. If Defendants had affirmatively screened Plaintiff Hull for charity care, it  
19 would have determined that her income was below 200% of the federal  
20 poverty level in 2016 and that based on her income, she was eligible for  
21 charity care under the Charity Care Act.
- 22 47. Because Plaintiff Hull was underinsured and her income was less than 200%  
23 of the federal poverty level when she went to Defendants' emergency center  
24 in 2016, she qualified for and should have received charity care from  
25 Defendants under the Charity Care Act.
- 26 48. Through this conduct Defendants violated RCW 19.86.020 by not screening  
27 Plaintiff Hull for charity care and sending Plaintiff Hull's account directly to a  
28 debt collector.



49. As a result of Defendants' abusive conduct, Plaintiff Hull has monetary damages in the form of payments to a debt collector.

50. As a result of Defendants' abusive conduct, Plaintiff Hull suffered actual damages in the form of mental anguish and emotional distress, which was manifested by symptoms including but not limited to: stress, anxiety, worry, restlessness, irritability, embarrassment, loss of sleep, feelings of hopelessness, and helplessness all impacting his job and personal relationships.

**Plaintiff Sharon Shrout**

51. On or around March 2, 2017, Plaintiff Shrout's daughter received emergency services relating to an injury to her daughter from MHS at MBH.

52. MBH completed an emergency evaluation on Plaintiff Shrout's daughter, treated the injury, and ended up sending Plaintiff Shrout and her daughter home.

53. On this trip to the hospital in or around March 2, 2017, Defendants did *not* affirmatively screen Plaintiff Shrout for charity care.

54. As a result of this visit, Defendants charged Plaintiff Shrout an amount which Plaintiff Shrout could not afford.

55. Plaintiff Shrout was underinsured at the time of service in or around March 2, 2017.

56. Subsequently, Plaintiff's account with Defendants was sent to a debt collector,

57. State Collection Service, Inc. ("SCS") subsequently started attempting to collect money from Plaintiff Shrout indicating that Plaintiff Shrout owed money to MBH.

58. Defendants did not determine Plaintiff Shrout's charity care eligibility before sending this account to SCS for collection.

1 59. Because of Defendants' failure to screen Plaintiff Shrout, Plaintiff Shrout has  
2 been receiving numerous phone calls from SCS in an attempt to collect the  
3 debt.

4 60. Because Plaintiff was underinsured, she should have been screened for charity  
5 care from Defendants under the Charity Care Act.

6 61. Through this conduct Defendants violated RCW 19.86.020 by not screening  
7 Plaintiff Shrout for charity care and sending Plaintiff Shrout's account directly  
8 to a debt collector.

9 62. As a result of Defendants' abusive conduct, Plaintiff Shrout has monetary  
10 damages in the form of payments to a debt collector.

11 63. As a result of Defendants' abusive conduct, Plaintiff Shrout suffered actual  
12 damages in the form of mental anguish and emotional distress, which was  
13 manifested by symptoms including but not limited to: stress, anxiety, worry,  
14 restlessness, irritability, embarrassment, loss of sleep, feelings of  
15 hopelessness, and helplessness all impacting his job and personal  
16 relationships.

17 **Plaintiff Christina Gibbs**

18 64. In or around July 14, 2013, November 9, 2013, November 18, 2013, March  
19 14, 2013, July 26, 2014, March 7, 2015, and February 25, 2016, Plaintiff  
20 Christina Gibbs received emergency services from CHS at Multicare Valley  
21 Hospital ("MVH").

22 65. MVH completed an emergency evaluation on Plaintiff Christina Gibbs on  
23 these visits to MVH.

24 66. On these trips to the hospital, Defendants did *not* affirmatively screen  
25 Plaintiff Christina Gibbs for charity care.

26 67. As a result of this visit, Defendants charged Plaintiff Christina Gibbs an  
27 amount which Plaintiff Christina Gibbs could not afford.  
28

- 1 68. Plaintiff Christina Gibbs was underinsured at the time of service on these  
2 hospital visits to MVH.
- 3 69. Subsequently, Plaintiff Christina Gibbs' account with Defendants was sent to  
4 multiple debt collectors including Paragon Collections ("PC") and Sterling  
5 Emergency Services ("SES").
- 6 70. SES and PC subsequently started attempting to collect money from Plaintiff  
7 Christina Gibbs indicating that Plaintiff Christina Gibbs owed money to CHS  
8 and MVH.
- 9 71. Defendants did not determine Plaintiff Christina Gibbs' charity care eligibility  
10 before sending this account to SES and PC for collection.
- 11 72. Defendants never contacted Plaintiff Christina Gibbs regarding charity care  
12 before referring Plaintiff Christina Gibbs's account to PC.
- 13 73. Because of Defendants' failure to screen Plaintiff Christina Gibbs, Plaintiff  
14 Christina Gibbs has been paying SES and PC from the time SES and PC  
15 started collecting to the present.
- 16 74. If Defendants had affirmatively screened Plaintiff Christina Gibbs for charity  
17 care, it would have determined that her income was below 200% of the  
18 federal poverty level in 2016 and that based on her income, she was eligible  
19 for charity care under the Charity Care Act.
- 20 75. Because Plaintiff Christina Gibbs was underinsured and her income was less  
21 than 200% of the federal poverty level when she went to Defendants'  
22 emergency center in 2016, she qualified for and should have received charity  
23 care from Defendants under the Charity Care Act.
- 24 76. Through this conduct Defendants violated RCW 19.86.020 by not screening  
25 Plaintiff Christina Gibbs for charity care and sending Plaintiff Christina  
26 Gibbs's account directly to a debt collector.
- 27 77. As a result of Defendants' abusive conduct, Plaintiff Christina Gibbs has  
28 monetary damages in the form of payments to a debt collector.

1 78. As a result of Defendants' abusive conduct, Plaintiff Christina Gibbs suffered  
2 actual damages in the form of mental anguish and emotional distress, which  
3 was manifested by symptoms including but not limited to: stress, anxiety,  
4 worry, restlessness, irritability, embarrassment, loss of sleep, feelings of  
5 hopelessness, and helplessness all impacting his job and personal  
6 relationships.

7 **Plaintiff Darmon Gibbs**

8 79. In or around March 25, 2007, April 27, 2013, and December 4, 2014, and  
9 August 11, 2017, Plaintiff Darmon Gibbs received emergency services from  
10 CHS, MHS, and MVH.

11 80. MVH completed an emergency evaluation on Plaintiff Darmon Gibbs during  
12 these hospital visits.

13 81. On all of these trips to the hospital, Defendants did *not* affirmatively screen  
14 Plaintiff Darmon Gibbs for charity care.

15 82. As a result of these visits, Defendants charged Plaintiff Darmon Gibbs an  
16 amount which Plaintiff Darmon Gibbs could not afford.

17 83. Plaintiff Darmon Gibbs was underinsured at the time of services by MVH.

18 84. Subsequently, Plaintiff Darmon Gibbs's account with Defendants was sent to  
19 multiple debt collectors including ARC Collection ("ARC").

20 85. ARC subsequently started attempting to collect money from Plaintiff Darmon  
21 Gibbs indicating that Plaintiff Darmon Gibbs owed money to CHS, MHS, and  
22 MVH.

23 86. Defendants did not determine Plaintiff Darmon Gibbs' charity care eligibility  
24 before sending this account to ARC for collection.

25 87. If Defendants had affirmatively screened Plaintiff Darmon Gibbs for charity  
26 care, it would have determined that his income was below 200% of the  
27 federal poverty level in 2016 and that based on his income, he was eligible for  
28 charity care under the Charity Care Act.

88. Because Plaintiff Darmon Gibbs was underinsured and his income was less than 200% of the federal poverty level when he went to Defendants' emergency center, he qualified for and should have received charity care from Defendants under the Charity Care Act.

89. Through this conduct Defendants violated RCW 19.86.020 by not screening Plaintiff Darmon Gibbs for charity care and sending Plaintiff Darmon Gibbs's account directly to a debt collector.

90. As a result of Defendants' abusive conduct, Plaintiff Darmon Gibbs has monetary damages in the form of payments to a debt collector.

91. As a result of Defendants' abusive conduct, Plaintiff Darmon Gibbs suffered actual damages in the form of mental anguish and emotional distress, which was manifested by symptoms including but not limited to: stress, anxiety, worry, restlessness, irritability, embarrassment, loss of sleep, feelings of hopelessness, and helplessness all impacting his job and personal relationships.

### **CLASS ALLEGATIONS**

92. As a result Plaintiffs brings this action on behalf of themselves and all others similarly situated, as a member of the proposed class (hereafter "Class") defined as follows:

#### **The Class**

All individuals (or their guardians or representatives) who within the statute of limitations (a) received emergency care medical treatment from Defendant MHS; (b) uninsured or underinsured by insurance or any other third-party source of payment at the time of treatment; and (c) were subject to collections even though MHS's account records show no affirmative screening to determine the patient's eligibility for charity care.

1           Sub-Class #1

2           All individuals (or their guardians or representatives) who  
3           within the statute of limitations (a) received emergency care  
4           medical treatment from MTGH; (b) uninsured or underinsured  
5           by insurance or any other third-party source of payment at the  
6           time of treatment; and (c) were subject to collections even  
7           though MTGH's account records show no affirmative screening  
8           to determine the patient's eligibility for charity care.

9           Sub-Class #2

10          All individuals (or their guardians or representatives) who  
11          within the statute of limitations (a) received emergency care  
12          medical treatment from MBH; (b) uninsured or underinsured by  
13          insurance or any other third-party source of payment at the time  
14          of treatment; and (c) were subject to collections even though  
15          MBH's account records show no affirmative screening to  
16          determine the patient's eligibility for charity care.

17          Sub-Class #3

18          All individuals (or their guardians or representatives) who  
19          within the statute of limitations to July 1, 2017 (a) received  
20          emergency care medical treatment from CHS; (b) uninsured or  
21          underinsured by insurance or any other third-party source of  
22          payment at the time of treatment; and (c) were subject to  
23          collections even though CHS's account records show no  
24          affirmative screening to determine the patient's eligibility for  
25          charity care.

- 26  
27       93.   Plaintiffs represent, and are a member of, the Class, consisting of all persons  
28       within the United States who received emergency care medical treatment

1 from Defendants, was underinsured at the time of treatment, and was subject  
2 to collections even though Defendants' account records show no affirmative  
3 screening to determine Plaintiffs' eligibility for charity care, within the the  
4 statute of limitations.

5 94. Defendants, its employees and agents are excluded from the Class. Plaintiffs  
6 do not know the number of members in the Class, but believe the Class  
7 members number in the hundreds, if not more. Thus, this matter should be  
8 certified as a Class Action to assist in the expeditious litigation of the matter.

9 95. The Class is so numerous that the individual joinder of all of its members is  
10 impractical. While the exact number and identities of the Class members are  
11 unknown to Plaintiffs at this time and can only be ascertained through  
12 appropriate discovery, Plaintiffs are informed and believes and thereon alleges  
13 that the Class includes hundreds, if not thousands of members. Plaintiffs  
14 allege that the Class members may be ascertained by the records maintained  
15 by Defendants.

16 96. Common questions of fact and law exist as to all members of the Class, which  
17 predominate over any questions affecting only individual members of the  
18 Class. These common legal and factual questions, which may be determined  
19 without reference to the individual circumstances of any Class members,  
20 include, but are not limited to, the following:

21  
22 a. Whether the Charity Care Act requires Defendants to  
23 affirmatively screen all patients at or near the time of admission to determine  
24 whether they are indigent;

25 b. Whether under the Charity Care Act, Defendants are  
26 required to conduct this affirmative screening of all patients before  
27 demanding payment for services;  
28



1 c. Whether Defendants have a pattern and practice of not  
2 affirmatively and proactively screening uninsured patients at or near the time  
3 of their admission to determine whether they are indigent;

4 d. Whether Defendants have a pattern and practice of  
5 demanding payment from uninsured and underinsured patients without first  
6 affirmatively screening them to determine whether they are indigent;

7 e. Whether Defendants pattern and practice of demanding  
8 payment from uninsured or underinsured patients without first affirmatively  
9 screening them to determine whether they are indigent is unfair and/or  
10 deceptive;

11 f. Whether Defendants' pattern and practice of demanding  
12 payment from uninsured and underinsured patients without first  
13 affirmatively screening them to determine whether they are indigent is  
14 unlawful under any of the causes of action asserted herein;

15 g. Whether Defendants have been unjustly enriched by  
16 these practices; and

17 h. Whether the foregoing acts and conduct of Defendants  
18 render them liable to Plaintiffs and the class members for restitution  
19 declaratory, and injunctive relief, and/or damages.

20 97. As an underinsured person that received emergency care from Defendants and  
21 was not affirmatively screened to determine whether they were indigent,  
22 Plaintiffs are asserting claims that are typical of the Class.

23 98. Plaintiffs will fairly and adequately protect the interests of the members of the  
24 Class. Plaintiffs have retained attorneys experienced in the prosecution of  
25 class actions.

26 99. A class action is superior to other available methods of fair and efficient  
27 adjudication of this controversy, since individual litigation of the claims of all  
28 Class members is impracticable. Even if every Class member could afford

individual litigation, the court system could not. It would be unduly burdensome to the courts in which individual litigation of numerous issues would proceed. Individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments and would magnify the delay and expense to all parties and to the court system resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system, and protects the rights of each Class member.

100. The prosecution of separate actions by individual Class members would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other Class members not parties to such adjudications or that would substantially impair or impede the ability of such non-party Class members to protect their interests.

101. Defendants have acted or refused to act in respects generally applicable to the Class members, thereby making appropriate final and injunctive relief with regard to the members of the Class as a whole.

## **CAUSES OF ACTION**

### **COUNT I**

#### **DECLARATORY RELIEF**

102. Plaintiffs repeat, re-allege, and incorporate by reference, all other paragraphs.

103. Pursuant to the Declaratory Judgments Act, RCW Ch. 7.24, Plaintiffs and class members are entitled to a declaration that under the Charity Care Act, Defendants are required to affirmatively screen all patients at or near the time of admission to determine whether they are indigent, and that it is required to conduct this affirmative screening before demanding payment for services.

**COUNT II**

**VIOLATION OF THE WASHINGTON CONSUMER PROTECTION ACT**

**RCW 19.86**

104. Plaintiffs repeat, re-allege, and incorporate by reference, all other paragraphs.
105. Defendants' failure to comply with the Charity Care Act as set forth above violates the Washington Consumer Protection Act ("CPA"), RCW 19.86, as to Plaintiffs and class members.
106. Specifically, by failing to comply with the Charity Care Act as set forth above, Defendants have engaged in, and continue to engage in, unfair and deceptive acts or practices in trade or commerce in violation of the CPA by failing to affirmatively screen patients for charity care and then immediately sending the outstanding bill to collections without contacting the patients.
107. Such conduct affects the public interest and has caused injury to the business or property of Plaintiffs and class members.
108. Plaintiffs suffered emotional damages because of this conduct by Defendants.
109. As a result of each and every violation of the Washington Consumer Protection Act, Plaintiffs are entitled to any actual damages, costs, and attorneys fees pursuant to RCW 19.86.090.
110. Plaintiffs are further requesting the court treble damages pursuant to RCW 19.86.090 due to the reprehensible nature of Defendants' conduct.

**COUNT III**

**BREACH OF COVENANT OF GOOD FAITH AND FAIR DEALING**

111. Plaintiffs repeat, re-allege, and incorporate by reference, all other paragraphs.
112. Defendants' conduct, as alleged above, also constitutes a breach of the covenant of good faith and fair dealing.
113. Plaintiffs and class members entered into express or implied-in-fact contractual relationships with Defendants when they went to Defendants' emergency room for the purpose of receiving emergency medical care.

1 114. Implied into every contract is a covenant of good faith and fair dealing. This  
2 covenant of good faith and fair dealing requires that all parties will act  
3 reasonably and will not act so as to prevent performance by the other party.

4 115. Under Washington law, a statutory violation can constitute a breach of  
5 covenant of good faith and fair dealing.

6 116. Because the requirements of the Charity Care Act are likely incorporated into  
7 the contractual relationship between Defendants and its patients, Defendants'  
8 violations of the Charity Care Act can also constitute a breach of its covenant  
9 of good faith and fair dealing.

10 117. Defendants violated the Charity Care Act and thereby breached its covenant  
11 of good faith and fair dealing owed to Plaintiffs and class members by failing  
12 to affirmatively screen them at or near the time of admission to determine  
13 whether they were indigent, and demanding payment for services without  
14 conducting the required affirmative screening, and thereby caused injury and  
15 consequential damages to Plaintiffs and class members.

#### 16 **COUNT IV**

##### 17 **UNJUST ENRICHMENT AND RESTITUTION**

18 118. Plaintiffs repeat, re-allege, and incorporate by reference, all other paragraphs.

19 119. Defendants' actions, as described above, are unconscionable and unlawful.

20 120. Defendants have received money which belongs to Plaintiffs and class  
21 members which in equity and good conscience Defendants ought to pay to  
22 Plaintiffs and class members, along with interest.

#### 23 **COUNT V**

##### 24 **UNJUST ENRICHMENT AND RESTITUTION (INJUNCTIVE RELIEF)**

25 121. Plaintiffs repeat, re-allege, and incorporate by reference, all other paragraphs.

26 122. Plaintiffs and class members are entitled to an injunction under the CPA,  
27 under the common law, and under any other applicable laws enjoining  
28 Defendants from continuing to engage in the conduct alleged herein.

123. In particular, Plaintiffs and class members are entitled to an injunction under the CPA, under the common law, and under any other applicable laws to enjoin further violations of the Charity Care Act and/or unfair or deceptive acts and practices related to Defendants' provision of charity care (or lack thereof) to indigent persons, including an injunctive order requiring Defendants to affirmatively screen all patients at or near the time of admission to determine whether they are indigent, and requiring that it conduct this affirmative screening before demanding payment from uninsured or underinsured patients.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of the class members pray that judgment be entered against Defendants, and Plaintiffs be awarded damages from Defendants, as follows:

Plaintiffs respectfully requests the Court grant Plaintiff and Class members the following relief against Defendants:

- ¥ An order certifying the Class;
- ¥ An order certifying the undersigned counsel as Class Counsel;
- ¥ A declaratory judgment that Defendants' actions as discussed herein is unlawful;
- ¥ An order requiring Defendants, at their own cost, to notify all members of the Classes of the unlawful acts discussed herein;
- ¥ Injunctive relief stopping Defendants from further failure to affirmatively screen patients for charity care;
- ¥ Actual damages suffered by Plaintiffs and each Class member, pursuant, against Defendants.
- ¥ An award of any such amount as the Court may allow for all other class members in accordance with proof at trial, including treble damages under the CPA, against Defendants;

1       ¥ An award of costs of litigation and reasonable attorney's fees,  
2       pursuant to 15 U.S.C. §§ 1681n(a)(3) and 1681o(a)(2), against  
3       Defendants;

4       ¥ Award Plaintiffs and class members their costs of suit, including  
5       expert fees, and reasonable attorney's fees as provided by the CPA  
6       and other applicable law; and

7       ¥ Any other relief the Court may deem just and proper.

8       124. Pursuant to the seventh amendment to the Constitution of the United States of  
9       America, Plaintiffs are entitled to, and demand, a trial by jury.

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11       Respectfully submitted,

**Kazerouni Law Group**

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14       Date: January 31, 2019

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